

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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CLERK, US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

NOLAN NATHANIEL EDWARDS,
Plaintiff,

vs.

CASE NO.

8:06-CV-82-T-27-MAP
8:00-CV-814

EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS
Respondent.

PLAINTIFF'S COMPLAINT FOR THE
PRODUCTION OF RECORDS PURSUANT TO 5 U.S.C. §552

COMES NOW, the Plaintiff, Nolan N. Edwards, appearing this day pro se herein, and respectfully moves this Honorable Court for redress based upon Statutory rights secured to the Plaintiff enumerated under the Freedom of Information Act (FOIA); 5 U.S.C. §552, for access to certain records maintained by the Executive office for United States Attorneys (EOUSA).

1. The (EOUSA) is an agency to which requests for documents can be directed within the meaning of (FOIA). Whereby, Plaintiff has exhausted the requirement of administrative remedy for purpose of the court's jurisdiction for judicial review. Therefore, jurisdiction is proper under 28 U.S.C. §1331 and 5 U.S.C. §552(a)(4)(B).

FACTS

The facts of this case derive from a criminal proceeding pursuant to case #96-332-CR-T-25(A), in reference to the Plaintiff and alleged co-defendant Shawn Williams.

The assistant United States Attorney, an agent on behalf of (EOUSA) interviewed Williams to be assured that William's statements were not inconsistent with his police statements for his testimony in the Plaintiff's criminal trial.

On January 29, 2004, Plaintiff sought to obtain records under (FOIA). Plaintiff specifically, requested all records of Shawn Williams' police statements as related to the above criminal case¹.

On December 11, 2006, the (EOUSA) withheld Plaintiff's requested records on the grounds that such Police statements are protected from disclosure under (FOIA) pursuant to 5 U.S.C. §552(b)(7)(c). (See, exhibits, A,B,C,D, attached to Plaintiff's complaint)).

LAW

There is no dispute in this case that the records as requested by the Plaintiff exist. However, the controversy before this court is whether the claimed exemption based upon the circumstances of this case constitute an unwarranted invasion of the personal privacy. When according to the agency's own admission by its agent, the assistant United States Attorney admitted that he interviewed Shawn Williams to be assured that his statements are not inconsistent with his Police statements for testimony in Plaintiff's criminal trial.

The complexity that the circumstances here presents as it relates to Williams' Police statements for trial testimony, necessarily requires a determination of the unwarranted invasion of personal privacy and the public interest in disclosure.

¹ See, Exhibits, A-B-C-D
Attached hereto.

On the public side of the scale is the government's activities interviewed Williams to assure that his statements were not inconsistent for trial were intimately associated with the judicial phase of the criminal trial process, and thus, were functions to which the public interest in disclosure of such government's activity could not reasonable be expected to constitute an unwarranted invasion of personal privacy. See, e.g. 5 U.S.C. §552 (b)(7)(B). (Right to a fair trial or an impartial adjudication).

The balancing tests in determining both privacy and public interests under exemption 7(c) offers the trial court two alternate methods by which to make the adequate factual basis determination "in camera review" and the "vaughn index" see, Ely v. FBI, 781 F.2d 1487 (11th Cir. 1986). Because even to assume that the invasion of privacy that could result from release of information outweigh the public interest in disclosure. The in camera proceure is the only method presently available to assure that the proper balance is struck, Ray v. Turner, 587 F.2d 1187, 1212 (D.C. Cir. 1978) Wright C.J. concurring (arguing that exparte in camera inspection actually increase the adversariness of a (FOIA) proceeding)).

In short, Plaintiff requests this Court to order the production of the requested records for incamera inspection and release to the Plaintiff any or all non-exempt portion thereof.

Executed this 11th day of September 2008.

Respectfully submitted, pro se

s/ Nolan N. Edwards

Nolan Edwards #92423-071

FCC Coleman-Medium

P.O. Box 1032

Coleman, Florida 33521-1032

Fed. Reg. No. 92423-071

FCC-USP COLEMAN

P.O. BOX 1033 Unit-M

Coleman, Fl. 33521-1033

The EXECUTIVE OFFICE for U.S. ATTORNEYS
U.S. DEPARTMENT OF JUSTICE
BICN Bldg. Room 7100
Washington, D.C. 20530

01/29/04

RE: REQUEST FOR PUBLIC RECORDS PURSUANT TO 5 U.S.C §552
FREEDOM OF INFORMATION

Pursuant to 5 U.S.C. §552, Requester Nolan Edwards requests public records from the file of the Executive Office for United States Attorneys. Mr. Edwards requests specifically all records of Shawn Williams' police statements as related to case number 96-332-CR-T-25(A).

Please find attached hereto a copy of trial transcripts wherein Shawn Williams testified and made reference of his police statements that have now become the subject of this request.

Moreover, Shawn Williams' informant status has been officially confirmed when he testified in a public trial as a government witness against Mr. Edwards. Whereby, disclosure is warranted under 5 U.S.C. §552(c)(2).

Respectively,

Nolan Edwards

Nolan Edwards

Dated 29 January 2004

Exhibit A



Executive Office for United States Attorneys
Freedom of Information/Privacy Act Unit
600 E Street, N.W., Room 7300
Washington, D.C. 20530
202-616-6757 Fax 202-616-6478

Request Number: 04-1268.

Subject: SHAWN WILLIAMS' STATEMENTS/FLM

Requester: NOLAN EDWARDS

Dear Requester:

The Executive Office for United States Attorneys (EOUSA) has received your Freedom of Information Act/Privacy Act (FOIA/PA) request. It has been assigned the above number. Please give us this number if you write about your request. If we need additional information, we will contact you within two weeks.

Your request will be placed in the order in which it was received for processing, unless it is a very large request (Project Request). Then, it will be placed in a separate group of Project Requests, which are also processed in the order received.

EOUSA makes every effort to process most requests within a month (20 working days). There are some exceptions, for example, Project Requests take approximately nine months to process. Requests for "all information about myself in criminal case files" are usually Project Requests. If you have made such a request, you may either write us and narrow your request for specific items, or you may expect that the processing of your request may take nine months from the date of this letter.

By making a FOIA/PA request, you have agreed to pay fees up to \$25, as stated in 28 CFR §16.3(c), unless you have requested a fee waiver. Please note that pursuant to 28 C.F.R. 16.11, we are required to charge fees for time used to search for the documents you have requested and for duplication of all pages released to you. Normally, search time is charged at a rate of \$28 per hour after the first two hours which are free, and duplication fees are \$0.10 per page after the first 100 pages which are free. Please do not send any payment at this time! If we anticipate that fees will exceed \$25 or the amount you have stated in your letter (if greater than \$25), we will normally notify you of our estimate of fees. After we have received your agreement to pay for the expected fees (or you have narrowed your request to reduce fees) and we have processed your request, we will require payment for the accumulated charges before we release documents to you. Without such payment, your request file will be closed without further action.

Sincerely,

Marie A. O'Rourke

Marie A. O'Rourke
Assistant Director

Form No. 001 - 9/03

Exhibit B

NOLAN EDWARDS
Reg. No. 92423-071
FCC-USP COLEMAN
P.O. BOX 1033 Unit-M
Coleman, Florida 33521-1033

May 13, 2004

EXECUTIVE OFFICE FOR U.S. ATTORNEYS
FREEDOM OF INFORMATION/PRIVACY ACT UNIT
600 E. Street, N.W., Room 7300
Washington, D.C. 20530

RE: Request #04-1268

Dear Sir/Madam,

In response to your letter dated April 30, 2004 and for clarification, please be advised that my request is not a Project Request for all information about myself in criminal case files. My request concerns only Shawn William's statements that he made to police pertaining to the events on January 29, 1996, see Trial transcripts priviously submitted.

The United States Attorney's Office for the Middle District of Florida has acknowledged that Shawn Williams was interviewed by the police. Additionally, Shawn Williams testified in a public trial against me, Nolan Edwards, making reference to statements he made to the police wherein I was the subject of events that occured on January 29, 1996. Any and all records of the statements made by Shawn Williams to the police concerning myself and the events of January 29, 1996 are the specific object of my request, for which under the Freedom of Information Act I am entitled to receive.

Sincerely,

Nolan Edwards
Nolan Edwards

Exhibit C



U.S. Department of Justice

Office of Information and Privacy

Telephone: (202) 514-3642

Washington, D.C. 20530

DEC 11 2006

Mr. Nolan N. Edwards
Register No. 92423-071
United States Penitentiary
Post Office Box 1033, Unit-M
Coleman, FL 33521-1033

Re: Appeal No. 04-2414
Request No. 04-1268
BVE:KAM

Dear Mr. Edwards:

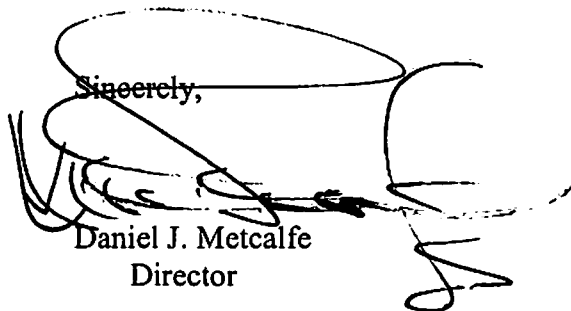
You appealed from the action of the Executive Office for United States Attorneys (EOUSA) on your request for access to records pertaining to statements Shawn Williams made to the police during a criminal investigation related to you in criminal case number 96-332-CR-T-25(A). I regret the substantial delay in responding to your appeal.

After carefully considering your appeal, I am affirming EOUSA's action on your request. The records responsive to your request are exempt from the access provision of the Privacy Act of 1974 pursuant to 5 U.S.C. § 552a(j)(2). See 28 C.F.R. § 16.81 (2006). Because these records are not available to you under the Privacy Act, your request has been reviewed under the Freedom of Information Act in order to afford you the greatest possible access to them.

The EOUSA properly withheld certain information that is protected from disclosure under the FOIA pursuant to 5 U.S.C. § 552(b)(7)(C). This provision protects from disclosure records or information compiled for law enforcement purposes the release of which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third parties. I have determined that EOUSA's response was correct. The records you seek are not a matter of public record as you suggested in your request.

If you are dissatisfied with my action on your appeal, you may seek judicial review in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,



Daniel J. Metcalfe
Director

Exhibit D